

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Petitioner,

v.

Civil Action No. 14-MC-49

ANTHONY TOMASINO,

Respondent.

PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

The United States of America, on behalf of its agency, the Internal Revenue Service (“IRS”), and by its attorneys, James L. Santelle, United States Attorney for the Eastern District of Wisconsin, and Matthew D. Krueger, Assistant United States Attorney for said district, avers to this Court, upon information and belief, as follows:

1. This is a proceeding brought pursuant to the provisions of sections 7402(b) and 7604(a) of Title 26 of the United States Code, to judicially enforce an IRS summons.
2. James Thierfelder is a Revenue Officer of the Internal Revenue Service, employed in the Small Business/Self-Employed Compliance, and is authorized to issue an IRS summons pursuant to the authority contained in 26 U.S.C. § 7602, and Treasury Regulations Section 301.7602-1, 26 C.F.R. § 301.7602-1.
3. The respondent, Anthony Tomasino, resides or is found at 7117 W Drexel Avenue, Franklin, WI 53132, within the jurisdiction of this court.
4. Revenue Officer James Thierfelder is conducting an investigation into the collection of tax liability of Tony’s Concrete Services for the Form 941 tax liabilities for the

quartely periods ending June 30, 2012, September 30, 2012, December 31, 2012, June 30, 2013 and September 30, 2013, as it is set forth in the Declaration of Revenue Officer James Thierfelder attached hereto as Exhibit 1.

5. The respondent, Anthony Tomasino, is the sole owner of Tony's Concrete Services. Pursuant to 26 U.S.C. § 7602(a)(2), an IRS summons may be issued to respondent regarding the above-listed tax liability of Tony's Concrete Services. Respondent is in possession and control of testimony, and other documents concerning the above-described investigation.

6. On March 5, 2014 an IRS summons was issued by Revenue Officer James Theirfelder directing the respondent, Anthony Tomasino, to appear before Revenue Officer James Theirfelder on April 1, 2014, at 9:00 am to testify and to produce the books, records, and other data described in the summons. An attested copy of the summons was served to respondent Anthony Tomasino by leaving it at the last and usual place of abode of the respondent, by leaving it with his daughter, Angie Tomasino, by Revenue Officer James Theirfelder on March 7, 2014. The summons is attached hereto and incorporated herein as Exhibit 2.

7. On April 1, 2014, the respondent, Anthony Tomasino, did not appear in response to the summons. The respondent's refusal to comply with the summons continues to date as set forth in the declaration of Revenue Officer James Theirfelder attached hereto as Exhibit 1.

8. The books, papers, records, or other data sought by the summons are not already in possession of the IRS.

9. All administrative steps required by the IRS for the issuance of a summons have been taken.

10. It is necessary to obtain the testimony and examine the books, papers, records, or other data sought by the summons in order to properly investigate the collection of the federal tax liability of Tony's Concrete Services for the Form 941 tax liabilities for the quarterly periods ending June 30, 2012, September 30, 2012, December 31, 2012, June 30, 2013 and September 30, 2013, as is evidenced by the declaration of James Thierfelder attached and incorporated as part of this petition.

WHEREFORE, the petitioner respectfully prays:

1. That this Court enter an order directing the respondent, Anthony Tomasino, to show cause, if any, why respondent should not comply with and obey the aforementioned summons and each and every requirement thereof.

2. That the Court enter an order directing the respondent, Anthony Tomasino, to obey the aforementioned summons and each and every requirement thereof by ordering the attendance, testimony, and production of the books, papers, records, or other data as is required and called for by the terms of the summons before Revenue Officer James Thierfelder or any other proper officer or employee of the IRS at such time and place as may be fixed by Revenue Officer James Theirfelder, or any other proper officer or employee of the IRS.

3. That the United States recover its costs in maintaining this action.

4. That the Court grant such other and further relief as is just and proper.

Dated this 13th day of August, 2014.

JAMES L. SANTELLE
United States Attorney

By: /s/ Matthew D. Krueger

MATTHEW D. KRUEGER
Assistant United States Attorney
District of Columbia Bar No. 979682
United States Attorney's Office
Eastern District of Wisconsin
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
Telephone: (414) 297-1747
Facsimile: (414) 297-4394
Email: matthew.krueger@usdoj.gov